

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BARRY J. HORN,	:	
Plaintiff,	:	CIVIL ACTION NO. 1:06-CV-1038
	:	
v.	:	(Chief Judge Kane)
	:	
ROBERT T. KLINE,	:	
CUMBERLAND COUNTY,	:	
Defendants.	:	

MEMORANDUM

Before the Court is Defendants' motion to dismiss Plaintiff's amended complaint. On September 12, 2006, Magistrate Judge Smyser issued a report, recommending denial of Defendants' motion to dismiss. (Doc. No. 23.) Defendants filed objections on September 20, 2006. (Doc. No. 24.) Plaintiff has filed a brief in opposition to Defendants' objections. (Doc. No. 26.) Upon consideration of the parties' briefs, the Report and Recommendation, Defendants' objections, and Plaintiff's brief in opposition, the Court agrees with Judge Smyser's recommendation to deny the motion to dismiss and finds Defendants' objections without merit.

Accordingly, **IT IS ORDERED THAT** Magistrate Judge Smyser's Report and Recommendation is **HEREBY ADOPTED**. Defendants' motion to dismiss Plaintiff's amended complaint is **DENIED**. Defendants' Objections are **OVERRULED**.

S/ Yvette Kane
Yvette Kane, Chief Judge
United States District Court
Middle District of Pennsylvania

Date: November 14, 2006